Supreme Court, U.S.
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No. 06- 051463 MAY 10 2006

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IN THE

Supreme Court of the United States

JOHNNY CROCKETT, Individually, and as Heirs to the Estate of Veronica Faye Crockett; ANDRA KITCHEN, Individually, and as Heirs of the Estate of Veronica Faye Crockett; ROBERT KITCHEN, Individually, and as Heirs of the Estate of VERONICA FAYE CROCKETT

Petitioner,

v.

R J REYNOLDS TOBACCO CO; R J R NABISCO INC; PHILIP MORRIS USA, INC; PHILIP MORRIS COMPANIES INC; BROWN & WILLIAMSON TOBACCO CORPORATION; BATUS TOBACCO SERVICES INC; B&W JAPAN INC;

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Did the court of appeals err by expanding federal diversity jurisdiction through the creation of a new exception to the voluntary-involuntary rule?

PARTIES TO PROCEEDINGS BELOW

The parties to the proceedings below are:

Johnny Crockett, Individually, and as Heir to the Estate of Veronica Faye Crockett; Andra Kitchen, Individually, and as Heir of the Estate of Veronica Faye Crockett; Robert Kitchen, Individually, and as Heir of the Estate of Veronica Faye Crockett (collectively "Crockett" or "Petitioners") (plaintiffs/petitioners)

R J Reynolds Tobacco Company, a subsidiary of Reynolds American Inc. (collectively "Tobacco Defendants") (defendant/respondent)

Philip Morris USA Inc, whose parent company is Altria Group, Inc., a publicly traded corporation (collectively "Tobacco Defendants") (defendant/respondent)

Brown & Williamson Tobacco Corporation, who is indirectly owned by subsidiary of British American Tobacco, P.L.C., a publicly traded corporation (collectively "Tobacco Defendants") (defendant/respondent)

Chevron USA Inc., who is an indirect wholly owned subsidiary of Chevron Texaco Corporation, a publicly traded corporation (collectively "Tobacco Defendants") (defendant/respondent)

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OPINION BELOW

The district court's order granting Tobacco Defendants judgment on the pleadings is unpublished. The judgment was entered in Cause No. G-04-505; *Crockett v. R. J. Reynolds Tobacco Co.*; in the United States District Court for the Southern District of Texas, Galveston Division. *See* App. B. The opinion of the court of appeals is published at 436 F.3d 529 (5th Cir. 2006). *See* App. A.

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Fifth Circuit sought to be reviewed was entered on January 13, 2006. A petition for rehearing en banc and petition for panel rehearing were timely filed. The petition for rehearing en banc was denied on February 7, 2006 and the petition for panel rehearing was denied on February 10, 2006. *See* App. C & D. This Court's has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

This case involves the federal diversity statute, 28 U.S.C. § 1332 and the procedures for removal found in 28 U.S.C. § 1446. The relevant provisions of these statutes are reproduced in the appendix to this petition. *See* App. E.